

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	CRIMINAL ACTION NO.
v.)	2:21cr190-MHT
)	(WO)
THOMAS LEE JAMES, JR., and)	
DEVAN SHELISE WILSON)	

ORDER

Based on the representations made on the record on August 19, 2021, and for the reasons set forth below, the court finds that jury selection and trial for both defendants Thomas Lee James, Jr., and Devan Shelise Wilson, now set for September 13, 2021, should be continued pursuant to 18 U.S.C. § 3161.

While the granting of a continuance is left to the sound discretion of the trial judge, *see United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the

information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and the above two defendants in a speedy trial. First, there has been the evolving threat, over the last year or so, to public health and safety posed by the Coronavirus pandemic, *see In Re: COVID-19, 2:20-mc-3910-ECM, Doc. 2 (March 17, 2020); In Re: Criminal Proceedings by Video or Audio Conference, 2:20-mc-3910-ECM, Doc. 15 (June 9, 2021)*. Second, there is the recent and alarming spread of the more serious Delta variant nationally as well as in Alabama. More

particularly, there is a much higher incident of transmission among a significantly larger percentage of unvaccinated people in Alabama than in most other areas in the nation, and a resulting overwhelming challenge to the delivery of health-care in Alabama. The court finds that convening a jury pool for a trial in September 2021 would pose an unacceptably high risk to the health and safety of the jury pool, court staff, and all other participants in the trial. And, finally, the government and both defendants agree to a continuance. The court, therefore, concludes that a continuance of jury selection and trial is necessary to ensure the safety of all.

Accordingly, it is ORDERED that the jury selection and trial for defendants Thomas Lee James, Jr., and Devan Shelise Wilson, now set for September 13, 2021, are reset for October 25, 2021, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

The United States Magistrate Judge shall conduct a pretrial conference for defendants James and Wilson prior to the October trial term.

DONE, this the 19th day of August, 2021.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE